

## **105 KAR 1:270. Special federal income tax withholding.**

RELATES TO: KRS 61.640, 61.645(9)(g), 26 U.S.C. 72(t), 401(a), 402

STATUTORY AUTHORITY: KRS 61.645(9)(g)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 61.645(9)(g) authorizes the Board of Trustees of Kentucky Retirement Systems to promulgate administrative regulations necessary to carry out the provisions of KRS 61.515 to 61.705, 16.510 to 16.652, and 78.520 to 78.852. 26 U.S.C. 402 establishes the federal taxation requirements regarding direct rollovers of distributions and the withholding of federal income tax. This administrative regulation establishes the procedure for informing affected members of their rights with regard to federal taxation rules and provides forms for members to indicate their preference for federal tax withholding or direct rollover of funds. This administrative regulation also establishes a procedure to issue a check to an alternate payee of a qualified domestic relations order if the alternate payee does not return the form required for federal income tax purposes within a reasonable time.

Section 1. (1) Upon receipt of a request for refund of member contributions from the member, the retirement office shall mail the Form 4525, Application for Refund of Member Contributions and Direct Rollover/Direct Payment Selection, along with a copy of the Special Tax Notice Regarding Payments to the member requesting payment.

(2)(a) The member shall complete the Form 4525, Application for Refund of Member Contributions and Direct Rollover/Direct Payment Selection, and return it to the retirement office.

(b) If the member intends to have the funds rolled over directly into an IRA or other plan, the member shall have the trustee or institution complete the back of the form certifying that the rollover will be accepted.

(3) The refund of contributions shall not be processed until the completed Form 4525, Application for Refund of Member Contributions and Direct Rollover/Direct Payment Selection, is returned by the member to the retirement office.

Section 2. (1) Upon receipt of a completed Form 6010, Estimated Retirement Allowance, on which the member has selected the actuarial refund or partial lump sum option, the retirement office shall mail to the member the Form 6025, Direct Rollover/Direct Payment Election Form for a Member or a Spouse Beneficiary of an Eligible Rollover Distribution, along with the Special Tax Notice Regarding Payments.

(2)(a) The member shall complete the Form 6025, Direct Rollover/Direct Payment Election Form for a Member or a Spouse Beneficiary of an Eligible Rollover Distribution, and return it to the retirement office.

(b) If the member intends to have the funds rolled over directly into an IRA or other plan, the member shall have the trustee or institution complete the back of the form certifying that the rollover will be accepted.

(3) The payment option selected by the member shall not be processed until the completed Form 6025, Direct Rollover/Direct Payment Election Form for a Member or a Spouse Beneficiary of an Eligible Rollover Distribution, is returned to the retirement office.

Section 3. (1) Upon receipt of a completed Form 6010, Estimated Retirement Allowance, on which the beneficiary who is the surviving spouse of the deceased member has selected the actuarial refund or sixty (60) months certain payment option, the retirement office shall mail to the beneficiary who is the surviving spouse of the deceased member the Form 6025, Direct Rollover/Direct Payment Election Form for a Member or a Spouse Beneficiary of an Eligible Rollover Distribution, along with the Special Tax Notice Regarding Payments.

(2)(a) The beneficiary who is the surviving spouse of the deceased member shall complete the Form 6025, Direct Rollover/Direct Payment Election Form for a Member or a Spouse Beneficiary of an Eligible Rollover Distribution, and return it to the retirement office.

(b) If the beneficiary who is the surviving spouse of the deceased member intends to have the funds rolled over directly into an IRA or other plan, the beneficiary who is the surviving spouse of the deceased member shall have the trustee or institution complete the back of the form certifying that the rollover will be accepted.

(3) The payment options selected by the beneficiary who is the surviving spouse of the deceased member shall not be processed until the completed Form 6025, Direct Rollover/Direct Payment Election Form for a Member or a Spouse Beneficiary of an Eligible Rollover Distribution, is returned to the retirement office.

Section 4. (1) Upon receipt of a completed Form 6010, Estimated Retirement Allowance, on which the beneficiary who is not the surviving spouse of the deceased member has selected the actuarial refund or a sixty (60) months certain payment option, the retirement office shall mail to the beneficiary who is not the surviving spouse of the deceased member the Form 6026, Direct Rollover/Direct Payment Election Form for a Non-Spouse Beneficiary of an Eligible Rollover Distribution, along with the Special Tax Notice Regarding Payments.

(2)(a) The beneficiary who is not the surviving spouse of the deceased member shall complete the Form 6026, Direct Rollover/Direct Payment Election Form for a Non-Spouse Beneficiary of an Eligible Rollover Distribution, and return it to the retirement office.

(b) If the beneficiary who is not the surviving spouse of the deceased member intends to have the funds rolled over directly into an IRA or other plan, the beneficiary who is not the surviving spouse of the deceased member shall have the trustee or institution complete the back of the form certifying that the rollover will be accepted.

(3) The payment option selected by the beneficiary who is not the surviving spouse of the deceased member shall not be processed until the completed Form 6026, Direct Rollover/Direct Payment Election Form for a Non-Spouse Beneficiary of an Eligible Rollover Distribution, is returned to the retirement office.

Section 5. (1)(a) If the alternate payee is eligible for a lump sum portion of the member's contribution account pursuant to a qualified domestic relations order, the Form 4525, Application for Refund of Member Contributions and Direct Rollover/Direct Payment Selection, along with the Special Tax Notice Regarding Payments shall be mailed to the alternate payee.

(b) If the alternate payee is eligible to select a payment option and selects an actuarial refund or partial lump sum, a Form 6025, Direct Rollover/Direct Payment Election Form for a Member or a Spouse Beneficiary of an Eligible Rollover Distribution, along with the Special Tax Notice Regarding Payments shall be mailed to the alternate payee.

(2)(a) The alternate payee shall complete the Form 4525, Application for Refund of Member Contributions and Direct Rollover/Direct Payment Selection, or Form 6025, Direct Rollover/Direct Payment Election Form for a Member or a Spouse Beneficiary of an Eligible Rollover Distribution, and return it to the retirement office.

(b) If the alternate payee intends to have the funds rolled over directly into an IRA or other plan, the alternate payee shall have the trustee or institution complete the back of the Form 4525, Application for Refund of Member Contributions and Direct Rollover/Direct Payment Selection, or Form 6025, Direct Rollover/Direct Payment Election Form for a Member or Spouse Beneficiary of an Eligible Rollover Distribution, certifying that the rollover will be accepted.

(3)(a) The payment of an actuarial refund or partial lump sum pursuant to the qualified domestic relations order shall not be processed until the completed Form 6025, Direct Rollover/Direct

Payment Election Form for a Member or a Spouse Beneficiary of an Eligible Rollover Distribution, is returned to the retirement office.

(b) If the payment is a portion of the member's contribution account and the alternate payee does not return the Form 4525, Application for Refund of Member Contributions and Direct Rollover/Direct Payment Selection, within thirty (30) days of receipt of the form, the payment shall be processed and the alternate payee's portion of the refund shall be treated for federal income tax purposes as if the alternate payee had made an election to receive the funds.

Section 6. (1) A member who was last employed as a "qualified public safety employee" as defined in 26 U.S.C. Internal Revenue Code, Section 72(t), may file a Form 4527, Certification by a Qualified Public Safety Employee and Request for an Exception to the ten (10) percent Early Distribution Penalty in IRC 72(t), to avoid the ten (10) percent early distribution tax penalty if electing to receive an actuarial refund, lump sum refund, partial lump sum refund, or the ten (10) years certain option.

(2) The member who was last employed as a "qualified public safety employee" shall file the Form 4527, Certification by a Qualified Public Safety Employee and Request for an Exception to the 10 percent Early Distribution Penalty in IRC 72(t), with the Form 4525, Application for Refund of Member Contributions and Direct Rollover/Direct Payment Selection, or the Form 6025, Direct Rollover/Direct Payment Election Form for a Member or a Spouse Beneficiary of an Eligible Rollover Distribution, at the retirement office in order to avoid the ten (10) percent early distribution tax penalty.

Section 7. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) Form 4525, "Application for Refund of Member Contributions and Direct Rollover/Direct Payment Selection", May 2008;

(b) "Special Tax Notice Regarding Payments", May 2008;

(c) Form 6010, "Estimated Retirement Allowance", July 2004;

(d) Form 6025, "Direct Rollover/Direct Payment Election Form for a Member or a Spouse Beneficiary of an Eligible Rollover Distribution", May 2008.

(e) Form 6026, "Direct Rollover/Direct Payment Election Form for a Non-Spouse Beneficiary of an Eligible Rollover Distribution", May 2008; and

(f) Form 4527, "Certification by a Qualified Public Safety Employees and Request for an Exception to the 10 percent Early Distribution Penalty in IRC 72(t)", May 2008.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Retirement Systems, Perimeter Park West, 1260 Louisville Road, Frankfort, Kentucky 40601, Monday through Friday, from 8 a.m. to 4:30 p.m. (19 Ky.R. 2352; eff. 6-7-93; Am. 20 Ky.R. 830; eff. 12-6-93; 21 Ky.R. 1532; eff. 2-8-95; 29 Ky.R. 773; eff. 11-12-02; 34 Ky.R. 121; 545; eff. 10-5-2007; 35 Ky.R. 119; eff. 10-3-08.)